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In re Application of :
BRANDT, Frank :
PCT No.: PCT/DE99/03154 : COMMUNICATION
U.S. Application No.: 09/806,784 :
International Filing Date: 28 September 1999 :
Priority Date: 01 October 1998 :
Attorney's Docket No.: ZIMM0001 :
For: METHOD AND DEVICE FOR TRANSMITTING :
DATA OVER LOW-VOLTAGE NETWORKS :

This application is before the PCT Legal Office for issues arising under 35 U.S.C. 371.

BACKGROUND

On 28 September 1999, applicant filed international application PCT/DE99/03154 which claimed a priority date of 01 October 1998 and which designated the United States. On 13 April 2000, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB").

On 27 April 2000, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the priority date, i.e., 02 April 2001 (01 April 2001 was a Sunday).

The published international application indicated three separate applicant/inventors (Frank Lukanek, Udo Schlegel, and Kay Schoenfeldt). However, on 27 March 2001, the IB mailed a Notification Of The Recording Of A Change (Form PCT/IB/306) indicating that the applicant and inventor was corrected to one person, Frank Brandt.

On 30 March 2001, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 09 May 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than thirty months from the priority date were required. The Notification also

informed applicants that the failure to submit these materials within two months of the date of the Notification would result in abandonment of the application.

On 30 May 2001, applicant filed a response to the Notification Of Missing Requirements that included a declaration executed by applicant/inventor Frank Brandt and payment of the surcharge for filing the declaration after the thirty month deadline.

On 27 July 2001, the DO/EO/US mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) and a Notification Of A Defective Oath Or Declaration (Form PCT/DO/EO/917) indicating that the declaration filed on 30 May 2001 was defective for failing to identify the inventors.

DISCUSSION

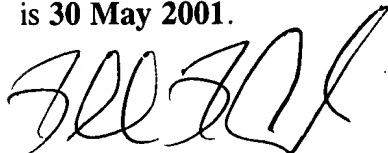
It appears that the Notification Of A Defective Response (Form PCT/DO/EO/916) and Notification Of A Defective Oath Or Declaration (Form PCT/DO/EO/917) mailed 27 July 2001 were mailed before the Form PCT/IB/306 had been matched to the application file. The Form PCT/IB/306 makes clear that there is only one applicant/inventor on this application with respect to the United States, Frank Brandt. The declaration filed by applicant on 30 May 2001 is executed by Mr. Brandt and otherwise complies with 37 CFR 1.497. The Notification Of A Defective Response (Form PCT/DO/EO/916) and Notification Of A Defective Oath Or Declaration (Form PCT/DO/EO/917) mailed on 27 July 2001, based as they were on the purported failure of the declaration filed 30 May 2001 to identify the inventor, are therefore appropriately vacated.

CONCLUSION

The Notification Of A Defective Response (Form PCT/DO/EO/916) and the Notification Of A Defective Oath Or Declaration (Form PCT/DO/EO/917) mailed 27 July 2001 are **VACATED**.

The declaration filed on 30 May 2001 (with the accompanying surcharge) constitute a proper response to the Notification Of Missing Requirements mailed 09 May 2001.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision. The 35 U.S.C. 371 date is **30 May 2001**.



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